

HOUSE BILL 1785
By Jones U (Shel)

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 35, Part 3, relative to providing for equitable distribution of criminal misdemeanor probationers in counties wherein private companies monitor probationers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-302, is amended by adding the following language as a new, appropriately designated subsection:

(h)

(1) Notwithstanding any provision of this section to the contrary, the use of private companies to monitor criminal misdemeanor probationers shall be allowed provided the clerks of the criminal court and general sessions court in which probation is granted distribute such cases on a rotating basis to such private probation companies, state and county probation.

(2) The use of private companies to monitor misdemeanor probationers shall be regulated by the clerks of the criminal court and general sessions court in accordance with regulatory guidelines established in that particular judicial district by the administrative judge of such district. The clerks of the criminal court and the general sessions court shall develop a common referral form for the order of probation and order of reference (pre-sentence report) and other

necessary forms, and report the compliance with the rotational system to the administrative judge of the judicial district every six (6) months so as to ensure compliance with this act. In cases where the probation company cannot provide needed services, the clerks of the criminal court and the general sessions court shall place probationers in a manner that maintains the integrity of the rotation system.

(3) Each company monitoring probationers for the court shall charge the standard monthly fee to the probationer as established by the guidelines, and shall remit to the county an administrative fee of twenty-five dollars (\$25.00) per probationer assigned in the rotation process. This fee is due on the fifteenth (15th) of each quarter along with the quarterly report. If a judge waives the standard fee to be paid by an indigent probationer, the administrative fee to be paid by the monitoring company shall likewise be waived. No administrative fees shall be required from state and county probation.

(4) Private probation companies that are in compliance as of January 1, 2001, with § 40-35-302 shall qualify to participate in the rotation. All other companies must meet guidelines and standards set forth by the administrative judge of said judicial district and the county and municipal probation advisory council.

(5) It is an offense for an officer of the court, including a judge or attorney, to knowingly influence directly or indirectly the rotation process.

(6) It is an offense for any private, state or county entity that provides probation supervisory services to knowingly attempt to directly or indirectly influence the rotation process.

(7) A violation of subdivisions (5) or (6) is a Class C misdemeanor.

(8) The provisions of this subsection shall not be construed to amend or abridge any contract or operating agreement between any court of county government and any agency or individual presently supplying such services to such court or county government pursuant to § 40-35-302

(9) The provisions of this subsection apply only in counties having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000) according to the 1990 federal census or any subsequent federal census.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.